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6 **IN THE UNITED STATES DISTRICT COURT**  
7 **FOR THE DISTRICT OF ARIZONA**  
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9 Madlurv LLC,  
10 Plaintiff/counterdefendant,  
11 v.  
12 Brow Trio LLC, et al.,  
13 Defendants/counterclaimants.  
14

No. CV-21-01683-PHX-JAT

**ORDER**

15 Pending before the Court is a discovery dispute between the parties. (Doc. 68). The  
16 parties agree that a hearing is not necessary, and the Court concurs. (*Id.* at 4). The dispute  
17 centers on two Rule 30(b)(6) deposition notices issued by Plaintiff to Defendant The Brow  
18 Trio, LLC and Defendant La Perma Artistry, LLC. These Defendants are in different  
19 procedural postures regarding their Rule 30(b)(6) notices so the Court will consider them  
20 separately.

21 **The Brow Trio, LLC**

22 It is undisputed that The Brow Trio, LLC has already appeared for a Rule 30(b)(6)  
23 deposition. (Doc. 68). However, Plaintiff seeks to reconvene that deposition to ask further  
24 questions. To this end, Plaintiff has sent another Rule 30(b)(6) notice of deposition. As  
25 far as the Court can tell, there are no new topics or categories in the new notice. From the  
26 joint discovery dispute brief, it appears Plaintiff's basis for seeking to reconvene the  
27 deposition is that the designated Rule 30(b)(6) deponent could not or would not fully  
28 answer questions on the noticed topics. (*Id.* at 1-2).

1 Defendants dispute whether the Rule 30(b)(6) deponent fully answered the  
2 questions; and, even if she did not, whether “perfect” answers on the noticed topics were  
3 required. (*Id.* at 2). Further, Defendants complain about Plaintiff’s counsel’s behavior at  
4 the prior deposition. (*Id.* at 2-3).

5 On this record, the Court finds no basis to reconvene and/or continue the prior Rule  
6 30(b)(6) deposition. There is no dispute that a witness was produced who could and did  
7 bind the company with answers on the topics. Accordingly, the Court will quash the  
8 renewed/second Rule 30(b)(6) notice to The Brow Trio, LLC.

9 This Court generally agrees with the court in *Fuentes v. Classica Cruise Operator*  
10 *Ltd, Inc.*, 32 F.4th 1311, 1322 (11th Cir. 2022) that a company does not fail to comply with  
11 a Rule 30(b)(6) notice merely because the designated witness could not answer every  
12 question. Nonetheless, the company is bound by its designated witness’s answers. *Snapp*  
13 *v. United Transportation Union*, 889 F.3d 1088, 1103 (9th Cir. 2018) (“[A]  
14 corporation *generally* cannot present a theory of the facts that differs from that articulated  
15 by the designated Rule 30(b)(6) representative.’ 7 James Wm. Moore et al., *Moore’s*  
16 *Federal Practice* § 30.25[3] (3d ed. 2016) (emphasis added). As such, ‘courts have ruled  
17 that because a Rule 30(b)(6) designee testifies on behalf of the entity, the entity is not  
18 allowed to defeat a motion for summary judgment based on an affidavit that conflicts with  
19 its Rule 30(b)(6) deposition or contains information that the Rule 30(b)(6) deponent  
20 professed not to know.’ *Id.*”).

21 The Court notes that here the parties dispute whether the Rule 30(b)(6) deponent  
22 fully answered the questions, which the Court need not resolve at this time. But whatever  
23 the scope of her answers, The Brow Trio, LLC is generally bound by those answers.

24 As a result, typically a company is motivated to bring a very knowledgeable Rule  
25 30(b)(6) witness because the company is bound by, and limited to, that witness’s answers  
26 for purposes of this litigation. Again, at this time, the Court does not need to decide the  
27 completeness of The Brow Trio LLC’s answers. Further, the Court need not at this time  
28 determine whether, when the witness’s first answer was allegedly incomplete, such

incompleteness was cured by a more full answer later in the deposition. *See generally Snapp*, 889 F.3d at 1104-05. But the Court does hold that the answers from the deposition are generally the outer limit of The Brow Trio, LLC's answers for purposes of this litigation.

### **La Perma Artistry, LLC**

Plaintiff has also sent a Rule 30(b)(6) notice of deposition to Defendant La Perma Artistry, LLC. It appears undisputed that this is the first such notice to this Defendant.

Defendants' main objection to this notice appears to be that it is "late" in the discovery period. (Doc. 68 at 3). Specifically, Plaintiff noticed this deposition on September 15, 2022, for October 7, 2022, and discovery closes October 14, 2022. While it may not be ideal to notice a deposition 7 days before the close of discovery, the Court is aware of no Rule or case that prohibits it. Defendants' argument (offered without citation) that Plaintiff must justify taking discovery so late in the discovery period, to the Court's knowledge, is not the law. Further, the Court finds that the September 15 notice for an October 7 deposition was reasonable. Finally, although Defendants argue that Plaintiff's counsel was "abusive" a the prior 30(b)(6) deposition (which Plaintiff's counsel disputes), the Court will not preclude all future discovery based on this allegation. Thus, Defendant La Perma Artistry, LLC must appear for its Rule 30(b)(6) deposition as noticed.

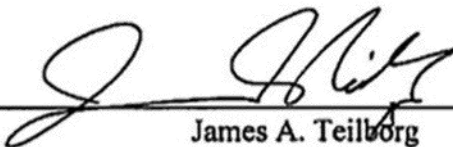
### **Conclusion**

The Court resolves the discovery dispute filed at Doc. 68 as follows:

**IT IS ORDERED** that the second notice of a Rule 30(b)(6) deposition to Defendant The Brow Trio, LLC is quashed.

**IT IS FURTHER ORDERED** that La Perma Artistry, LLC is ordered to produce one or more designees to testify at a Rule 30(b)(6) Deposition on October 7, 2022, pursuant to the Notice of Deposition served on La Perma Artistry, LLC on September 15, 2022.

Dated this 30th day of September, 2022.

  
James A. Teilborg  
Senior United States District Judge